



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

201427026

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

APR 11 2014

Uniform Issue List: 408.03-00

T. E. P. R. A. T. J.

Legend:

Taxpayer A =

IRA B =

Bank C =

Account D =

Bank E =

IRA F =

Bank G =

Individual H =

Amount 1 =

Amount 2 =

Dear :

This is in response to a request for a private letter ruling dated December 23, 2013, as supplemented by correspondence dated February 19, and March 28, 2014, submitted on your behalf by your authorized representative, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code ("Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested:

Taxpayer A represents that she received a distribution of Amount 1 from IRA B. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to the improper management of her financial affairs by Individual H. Taxpayer A further represents that Amount 1 has not been used for any other purpose except to satisfy her required minimum distribution for 2013.

On July 30, 2009, Taxpayer A designated her brother (Individual H) to handle all of her financial affairs through a power-of-attorney. At the time, Taxpayer A resided in an assisted living home. The ruling request is accompanied by a letter from Individual H's physician which states that she is currently being treated for senile dementia.

In order to consolidate Taxpayer A's accounts, Individual H decided to transfer all of Taxpayer A's assets to one financial institution (Bank E). On May 13, 2013, Individual H went to Bank C and represents that he received a check made out to Taxpayer A representing the distribution of Amount 1 from Taxpayer A's IRA (IRA B) at Bank C. Individual H represents that he did not complete any distribution paperwork which would have indicated to him that the distribution was from an IRA. On May 20, 2013, Amount 1 was deposited into Account D, a non-IRA account with Bank E.

The mistake was discovered in August of 2013, when Individual H received documentation regarding required minimum distribution rules relating to IRA B and contacted Taxpayer A's tax preparer. On September 4, 2013, after the 60-day rollover period had expired, Amount 1 was transferred to IRA F with Bank G. In November of 2013, Individual H withdrew Amount 2 from IRA F to cover Taxpayer's Required Minimum Distribution for 2013 and various living expenses.

Based on the above facts and representations, you request that the Internal Revenue Service ("Service") waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to Amount 1.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d) of the Code, any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if -

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60<sup>th</sup> day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60<sup>th</sup> day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) of the Code does not apply to any amount described in section 408(d)(3)(A)(i) of the Code received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) of the Code from an IRA which was not includible in gross income because of the application of section 408(d)(3) of the Code.

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and the documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a timely rollover of Amount 1 was due to the mismanagement of her financial affairs by Individual H.

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Therefore, pursuant to section 408(d)(3) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA B. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, were met with respect to Taxpayer A's contribution of Amount 1 into IRA F on September 4, 2013, such contribution will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

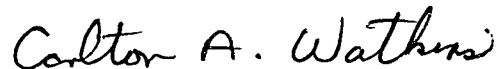
This ruling does not authorize the rollover of amounts that are required to be distributed by section 408(a)(6) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter ruling has been sent to your authorized representative pursuant to a power of attorney on file in this office. If you wish to inquire about this ruling, please contact ( ), SE:T:EP:RA:T1, at ( )

Sincerely yours,



Carlton A. Watkins, Manager  
Employee Plans Technical Group 1

Enclosures:

Deleted Copy of this Letter  
Notice of Intention to Disclose, Notice 437

cc: